



February 10, 2006

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

RE: WC Docket No. 06-10
Comments of Progress Energy, Inc.

Dear Ms. Dortch:

Enclosed for filing are Progress Energy, Inc.'s Comments in the above-captioned proceeding in support of the Petition for Declaratory Ruling filed by the United Power Line Council.

Should you have any questions concerning these comments, please feel free to call me at 919.546.6367.

Sincerely,

A handwritten signature in black ink, appearing to read 'Len S. Anthony', written over a large, stylized triangular graphic element.

Len S. Anthony
Deputy General Counsel - Regulatory Affairs

LSA:mhm

Attachment

C: Janice Myles (via email)
Best Copy and Printing (via email)

231013

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
United Power Line Council)	
Petition for Declaratory Ruling Regarding)	WC Docket No. 06-10
the Classification of Broadband over)	
Power Line Internet Access Service as an)	
Information Service)	

To: Chief, Wireline Competition Bureau

COMMENTS OF PROGRESS ENERGY, INC.

Pursuant to the Public Notice of the Federal Communications Commission (“FCC” or “Commission”),¹ Progress Energy, Inc. (“Progress”) hereby submit these comments in the above-captioned proceeding in support of the Petition for Declaratory Ruling filed by the United Power Line Council (“UPLC”).

I. INTRODUCTION

Progress is the parent company of Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc. (“PEC”) and Florida Power Corporation, d/b/a Progress Energy Florida, Inc. (“PEF”), two vertically integrated electric utilities serving portions of North Carolina, South Carolina and Florida. These utilities generate, transmit and deliver electricity to their retail and wholesale customers. PEC and PEF own and operate hundreds of miles of electric distribution conducive for the provision of Broadband over

¹ Pleading Cycle Established for Comments on United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband Over Power Line Internet Access Service as an Information Service, DA 06-49 (Jan. 11, 2006).

Power Line (“BPL”) service. As such, Progress is vitally interested in the regulatory treatment of this promising technology.

II. THE PUBLIC INTEREST WOULD BE SERVED BY GRANTING UPLC’S PETITION

Progress agrees with the UPLC that regulatory certainty is needed to assist in solidifying the regulatory and business environment for BPL. BPL offers the potential for the establishment of a significant new medium for extending broadband access to American homes and businesses. Given that power lines reach virtually every residence and business in every community and geographic area in this country, Access BPL service could be made available nearly everywhere, serving to introduce additional competition to existing cable modem and DSL services.²

Uncertainty in the degree of regulation to be applied to BPL will stifle investment in this new technology. Such uncertainty includes whether the rates, terms and conditions of service will be established by state and/or federal regulation and whether a BPL provider will be required to provide open access to all potential users. Investments will not be made if the profit potential is unknown or limited due to governmental regulation.

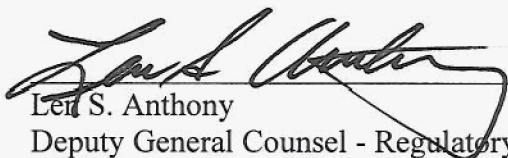
Importantly, there is no reason for such uncertainty. The Courts and the Commission have already determined that cable modem service and DSL service, the two competing technologies to BPL, are information services. Therefore, there is no legal or factual basis for classifying BPL as a telecommunications service and subjecting it to

² In re Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems; Carrier Current Systems, including Broadband over Power Line Systems, ET Docket Nos. 04-37, 03-104, Report and Order, 19 FCC Rcd 21265, FCC 04-245, at ¶ 1 (rel. Oct. 28, 2004).

regulation. NCTA v. Brand X, 125 S.Ct. 2688, 2691 (2005); *See Wireline Broadband NPRM*, 17 FCC Rcd 3019 at 3027-28, ¶ 14 (citing Report to Congress, 13 FCC Rcd 11501 at 11534).

WHEREFORE, THE PREMISES CONSIDERED, Progress Energy, Inc. requests that the Commission grant UPLC's Request for Declaratory Ruling and find that Access BPL services are information services.

Respectfully submitted this 10th day of February, 2006.



Len S. Anthony
Deputy General Counsel - Regulatory Affairs
Progress Energy Service Co., LLC
Post Office Box 1551
Raleigh, North Carolina 27602-1551
Telephone: (919) 546-6367
Facsimile: (919) 546-2694
E-mail: len.s.anthony@pgnmail.com

Counsel for Progress Energy, Inc.